

Message Text

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ACTION L-03

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USUN NEW YORK 1716

C O N F I D E N T I A L ROME 9696

E.O. 11652: GDS

TAGS: ICAO ETRN

SUBJECT: ICAO AIR SECURITY CONFERENCE: USDEL APPRAISAL

MONTREAL FOR US REP ICAO

PLS PASS: LTTELL/CAB; DRISCOLL/DOT; STEWARD/FAA

REF: (A) ROME 9253 (B) ROME 9672 (C) ROME 9681

1. FOLLOWING IS USDEL'S APPRIASAL OF SITUATION IN DIPLOMATIC
CONFERENCE AND REQUEST FOR INSTRUCTIONS. (ASSEMBLY PROSPECTS
AND REQUEST FOR INSTRUCTIONS CONTAINED SEPTTEL.)

2. AS REPORTED BY SEPTTEL AND SUMMARIZED IN REF (A), PRINCIPLES
VOTES ON INDEPENDENT CONVENTION, WHICH BELGIANS AGREE TERMINATE
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THEIR PROPOSAL AND NORDICS AGREE ELIMINATES ESSENTIAL ASPECT

OF THEIR PROPOSALS BUT WHICH PRESERVE BASIS FOR MARGINAL CONVENTION, HAVE ALSO BEEN REFERRED TO SAME DRAFTING GROUP.

3. SOVIET PROPOSAL.

A. DISCUSSIONS ON SOVIET PROPOSAL IN DRAFTING GROUP (US REP. GAITHER) HAVE PRODUCED NO AGREEMENT YET. WESTERN EUROPEANS AND WE AGREE THAT IF RULE 20 BIS SUSPENDED (TWO-THIRDS MAJORITY OF ALL STATES REGISTERED REQUIRED ON FINAL INSTRUMENT), SOVIET PROPOSAL MIGHT WELL CARRY BECAUSE EAST BLOC AND THEIR FRIENDS WOULD VOTE FOR IT, FEW WOULD OPPOSE AND VAST MAJORITY WOULD ABSTAIN. ACCORDINGLY, WE'S (NETHERLANDS, FRANCE, AUSTRALIA AND IRELAND) HAVE MADE EFFORT MAKE PROPOSAL AS INNOCUOUS AS POSSIBLE ON THEORY THAT IT MIGHT EMERGE FROM CONFERENCE. IN THIS EFFORT NETHERLANDS PROPOSED FOLLOWING IN WORKING GROUP AS ADDITIONAL SENTENCE TO SUBPARA C OF BULGARIAN PROPOSAL (SENT SEPTTEL):
QTE THE PROVISIONS OF SUBPARAGRAPH A OF THIS PARAGRAPH SHALL ONLY APPLY IF EXTRADITION IS CONFORMITY WITH THE NATIONAL LAW AND PRACTICE OF THE REQUESTED STATE BOTH AS TO SUBSTANCE AND PROCEDURE.
UNQTE.

B. THIS DILUTION OF PROPOSAL, HOWEVER, HAS EFFECT OF INCREASING LIKELIHOOD IT WILL BE ADOPTED. SOVIETS ARE RESISTING THESE EFFORTS IN DRAFTING GROUP BUT MAY RELENT. ARGUABLY USDEL MIGHT BEST ACHIEVE GOAL BY PROPPING UP SOVIETS TO ENSURE UNACCEPTABLE PROPOSAL EMERGES FROM DRAFTING GROUP. THIS, HOWEVER, WOULD BE DANGEROUS SINCE PROPOSAL MIGHT SOMEHOW STILL BE APPROVED BY CONFERENCE. ALSO US MOTIVES WOULD BE CLEAR TO SOVIETS SINCE WE HAVE INFORMED THEM WE NO LONGER SUPPORT THEIR PROPOSAL. ACCORDINGLY, USDEL TENDS AGREE WITH MOTIVES OF WE'S BUT HAS NOT YET PARTICIPATED IN EFFORTS MAKE SOVIET PROPOSAL MORE INNOCUOUS.

C. REQUEST INSTRUCTIONS PERMIT USDEL TO GIVE PRIVATE SUPPORT TO EFFORTS OF WE'S.

D. PURSUANT DEPT'S INSTRUCTIONS, USDEL INTENDS WORK PRIVATELY IN EFFORT ENSURE SOVIET PROPOSAL DOES NOT EMERGE FROM CONFERENCE. HOWEVER, UNLESS INSTRUCTED OTHERWISE USDEL DOES NOT CONTEMPLATE VOCAL OPPOSITION ON RECORD OR CASTING QTE NO UNQTE VOTE AGAINST SOVIET PROPOSAL. RATHER WE WOULD ENDEAVOR PROP UP STATES INCLINED
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VOTE QTE NO UNQTE AND ENCOURAGE OTHERS TO ABSTAIN.

4. GREEK PROPOSAL:

A. AS REPORTED IN REF (A) GREEK PROPOSAL PRESENTS NUMBER OF PRACTICAL AND LEGAL DIFFICULTIES. NEVERTHELESS AS REPORTED REFS (B) AND (C) IT DREW UNEXPECTED SUPPORT IN PRINCIPLES VOTES AND WILL BE CONSIDERED BY CONFERENCE DRAFTING GROUP SEPT. 17. ON

POSSIBILITY THAT GREEK PROPOSAL MIGHT BE ADOPTED BY CONFERENCE IF RULE 20 BIS SUSPENDED, USDEL IN DRAFTING GROUP WILL ENDEAVOR WITH OTHERS IMPROVE IT AS MUCH AS POSSIBLE.

B. AS REPORTED REF (B) ISRAELI DEL WOULD PREFER NO RESULT OF CONFERENCE OVER ADOPTION OF ONLY GREEK PROPOSAL.

C. IN LIGHT FOREGOING, REQUEST INSTRUCTIONS ON US POSITION ON GREEK PROPOSAL. IF VOTE UPON IT OCCURS IN SEPT. 18 CONFERENCE, BEFORE INSTRUCTIONS RECEIVED, USDEL INTENDS ABSTAIN.

5. INDEPENDENT CONVENTION:

A. PRINCIPLES VOTES BEING REPORTED BY SEPTEL ELIMINATED POSSIBILITY OF INDEPENDENT COMMISSION OF EXPERTS AND OF CONVOCATION OF STATES TRANSMITTING EVEN RECOMMENDATIONS TO NON-PARTIES. (PRINCIPLES VOTES, HOWEVER, DID NOT AND COULD NOT DEPRIVE ICAO COUNCIL OF DISCRETIONARY COMPETENCE UNDER CHICAGO CONVENTION TO CONSIDER CONDUCT OF ICAO MEMBERS AND TRANSMIT RECOMMENDATIONS TO THEM. TO ASSIST IT IN THIS EFFORT COUNCIL UNDER CHICAGO CONVENTION MIGHT FORM AD HOC EXPERT COMMISSION.) BOTH BELGIAN AND NORDIC REPS HAVE ADVISED USDEL THESE VOTES TERMINATE BASES FOR THEIR PROPOSALS. AS REPORTED REFS (B) AND (C) THERE WAS POSITIVE VOTE UPON FOLLOWING QUESTION: QTE SHOULD THE MACHINERY ESTABLISHED UNDER THE NEW CONVENTION BE COMPETENT TO MAKE RECOMMENDATIONS TO ... A STATE PARTY TO THE NEW CONVENTION NOT ALLEGED TO BE IN DEFAULT. UNQTE CONFERENCE PRESIDENT EXPLAINED THIS COULD MEAN RECOMMENDATION TO STATE PARTY CONCERNING MEANS TO IMPROVE ITS SECURITY MEASURES. ON OTHER HAND, IT MIGHT BE INTERPRETED TO PERMIT RECOMMENDATION TO STATES PARTIES CONCERNING JOINT ACTION AGAINST NON-PARTY. THERE IS SERIOUS QUESTION, HOWEVER, WHETHER MANY DELS WOULD SHARE THIS INTERPRETATION.

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B. DESPITE TERMINATION OF NORDIC AND BELGIAN PROPOSALS AND USDEL VIEW THAT THERE IS NO REASONABLE LIKELIHOOD USEFUL CONVENTION CAN BE PRODUCED BY CONFERENCE, OTHER DELS IN CONFERENCE DRAFTING GROUP HAVE PERCEIVED CONFERENCE MANDATE TO ATTEMPT DRAFT CONVENTION CONFORMING TO PRINCIPLES VOTES. SECRETARIAT HAS REQUESTED SWEDEN INFORMALLY TO PRODUCE SUCH A TEXT. SUCH DRAFT WOULD PROBABLY COVER HAGUE AND MONTREAL OFFENSES, UTILIZE ICAO COUNCIL AND CONVOCATION OF STATES AND PERMIT RECOMMENDATIONS TO BE SENT TO STATES PARTY. BASED UPON THIS ANALYSIS USDEL WILL ATTEMPT MAKE DRAFT REPORTED OUT AS STRONG AS POSSIBLE BUT WOULD INTEND ABSTAIN IN ANY VOTE UPON IT IN CONFERENCE UNLESS INSTRUCTED OTHERWISE.

6. RULE 20 BIS:

A. IF DEPT WISHES USDEL ATTEMPT ENSURE NO RESULT OF CONFERENCE

SINCE NO REASONABLE LIKELIHOOD USEFUL CONVENTION POSSIBLE, USDEL WILL NEED INSTRUCTIONS CONCERNING RULE 20 BIS. SOVIET AND GREEK DELS WILL INEVITABLY MOVE FOR SUSPENSION. USDEL WOULD NOT BE SURPRISED IF FRENCH DEL ACQUIESCED SINCE FRENCH MOTIVATIONS BEHIND 20 BIS RELATED TO INDEPENDENT CONVENTION. FOR THIS REASON, USDEL CAN SEE TACTICAL MERIT IN HAVING CONFERENCE DRAFTING COMMITTEE REPORT OUT AS EFFECTIVE A DRAFT CONVENTION AS POSSIBLE. WE DOUBT CONFERENCE COULD SUSPEND 20 BIS ON SOME PROPOSALS WHILE LEAVING IT INTACT ON OTHERS. AS PREVIOUSLY INDICATED WE DO NOT LIKE PRINCIPLE REFLECTED IN 20 BIS. NEVERTHELESS WE WOULD NOT INTEND ORGANIZE EFFORT SUSPEND IT AT THIS POINT SINCE SUCH WOULD GREATLY ENHANCE PROSPECTS FOR ADOPTION OF SOVIET AND GREEK PROPOSALS AND POSSIBLY ILLUSORY INDEPENDENT CONVENTION. SHOULD OTHER DELS MAKE MOVE SUSPEND IT, HOWEVER, USDEL WOULD INTEND VOTE AFFIRMATIVELY UNLESS INSTRUCTED OTHERWISE.

7. FULL POWERS: IF DEPT CONCURS WITH USDEL'S ANALYSIS OF CONFERENCE RESULTS, IT NEED NOT TRANSMIT FULL POWERS REQUESTED IN CIRCULAR 175.

8. ANOTHER DIPLOMATIC CONFERENCE/EXTRAORDINARY ASSEMBLY? ICAO SECRETARIAT AND SOME OTHER DELS HAVE SUGGESTED CONFERENCE AND ASSEMBLY RECONVENE AT LATER DATE (SIX MONTHS?) TO TAKE UP WORK OF ROME MEETING. THIS IDEA IS NOT ATTRACTIVE TO USDEL AND UNLESS INSTRUCTED OTHERWISE WE WILL ACTIVELY OPPOSE ANY SUCH EFFORTS, EMPLOYING ARGUMENT THAT DESIRABILITY, PRACTICABILITY AND TIMING

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OF ANY SUCH FURTHER MEETING CAN BEST BE CONSIDERED BY ICAO COUNCIL AT A LATER DATE.

9. RESOLUTION? SOME DELS ARE CONSIDERING FACE SAVING/DAMAGE LIMITING EFFORT TO HAVE ASSEMBLY ADOPT RESOLUTION. USDEL VIEWS FOLLOW BY SEPTTEL. VOLPE

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